IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 19574 of 2007(E)

PETITIONER:

ARYA VASANTHI M.A.,
ASSISTANT TEACHER, NEERVELI U.P.SCHOOL,
NIRMALAGIRI, KANNUR.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENTS:

1. THE DISTRICT EDUCATIONAL OFFICER,
THALASSERY.

2. THE ASSISTANT EDUCATIONAL OFFICER,
MATTANNUR.

3. THE MANAGER,
NEERVELI U.P.SCHOOL, NIRMALAGIRI, KANNUR.

4. SUMATHY K.,
HEAD MISTRESS, NEERVELI U.P. SCHOOL,
NIRMALAGIRI, KANNUR.

5. K.N.SREEDEVI,
RETIRED ASSISTANT EDUCATIONAL OFFICER,
"DHANYA", P.O.NARAVOOR, KOOTHUPARAMBA,
KANNUR-670 643.

Addl. R6. DEPUTY DIRECTOR OF EDUCATION,
KANNUR.
(Additional respondent no.6 impleaded as per judgment in W.P.(C)19574/07 dated 30th July 2007)

BY ADV. SRI.K.V.PAVITHRAN
SRI.P.P.RAMACHANDRAN
GOVERNMENT PLEADER SMT.M.R.SREELAHTA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of judgment in W.P.(C)12437/06 dated 18.10.2006.

Ext.P2: True copy of order No.G-4493/06 dated 29-12-2006 of the 2nd respondent.

Ext.P3: True copy of the order of the 1st respondent dated 21.2.2007.

Ext.P4: True copy of the representation submitted by the petitioner dated 17.3.2007.

Ext.P5: True copy of the order No.G-4493/06 dated 29.3.2007.

// True copy //

P.A. To judge

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A.K.BASHEER, J.

W.P.(C)No.19574 OF 2007

Dated this the 30th day of July, 2007

JUDGMENT

In view of the intervening development, I do not deem it necessary to deal with the rival contentions of the parties at this stage. Petitioner who claims promotion to the post of Headmistress in the school in question, has primarily impugned Ext.P5 order passed by the Assistant Educational Officer, who has been impleaded in this writ petition in her personal capacity as respondent no.5. By the impugned order, respondent no.5 had imposed a punishment of barring one increment with cumulative effect for two years.

2. Learned Government Pleader, after getting instructions, submits that Ext.P5 order can be treated as non est and inoperative since no corresponding office files are available in the office concerned. More importantly, respondent no.5 had passed the said order on the eve of her retirement. Therefore, the department does not propose to act on the said order. The above submission is recorded. Accordingly, Ext.P5 is quashed. If any entry has been made pursuant to Ext.P5 order, such entry shall be expunged from

the service records of the petitioner.

3. What remains only is consideration of Ext.R4(a) appeal pending before the Deputy Director of Education, Kannur that has been filed by respondent no.3/the manager against Ext.P3 order preferred by the manager, respondents 3 and 4. Therefore, the said officer is impleaded as additional respondent no.6. Learned Government Pleader accepts notice for the said additional respondent.

Having regard to the entire facts and circumstances, this writ petition can be disposed of with a direction to respondent no.6 to consider and pass orders on Ext.R4(a) on its merit and in accordance with law as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Respondent no.6 shall ensure that petitioner and respondents 3 and 4 are afforded sufficient opportunity to be heard before any decision is taken in the matter. Petitioner shall produce a copy of the writ petition along with a certified copy of the judgment before respondent no.6 for compliance.

A.K.BASHEER, JUDGE

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